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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,517	08/20/2001	Masaru Mizutani	6116.61001	5946

7590 01/02/2003

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EXAMINER

MAYO, TARA L

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/933,517

Applicant(s)

MIZUTANI, MASARU

Examiner

Tara L. Mayo

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-44 is/are pending in the application.
- 4a) Of the above claim(s) 30-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-28 and 44 is/are rejected.
- 7) ☒ Claim(s) 29 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6,6 1/2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3671

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Species A in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 30 through 43 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 9.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

4. The IDS (paper no. 6) filed 27 June 2002 has not been considered in light of the IDS (paper no. 6½), which more fully cites the same references listed on the former PTO-1449.

Specification

5. The use of the trademark JACUZZI has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Art Unit: 3671

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Objections

6. All prior objections to claims for minor informalities have been overcome by the response (paper no. 9) filed 22 November 2002.

Claim Rejections - 35 USC § 112

7. All prior rejections of the claims under 35 USC §112, second paragraph have been overcome by the response (paper no. 9) filed 22 November 2002.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Art Unit: 3671

9. Claims 8 through 10, 16, 18, 28, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Boyd et al. (U.S. Patent No. 3,026,538).

Boyd et al. '538, as seen in Figs. 1 and 2, show a pool comprising:

with regard to claim 8,

a pool structure (11) floating on a sea; and

means (37) for collecting and supplying deep-sea water to the pool structure;

with regard to claim 9,

further comprising means for mooring said pool structure at a fixed location (20);

with regard to claim 10,

wherein said means for mooring includes an anchor; and

with regard to claim 16,

further comprising means for draining said deep-sea water from the pool structure (51; col. 5, lines 49 through 52);

with regard to claim 18,

further comprising a facility (10) for enabling fishing from a side of said pool structure;
and

Art Unit: 3671

with regard to claim 44,

a pool structure (11); and

means for collecting and supplying deep-sea water to the pool structure.

10. Claims 8, 28, and 44 are rejected under 35 U.S.C. 102(e) as being anticipated by Mehta (U.S. Patent No. 6,317,898).

Mehta '898, as seen in Figs. 1 and 2, show a basin comprising:

with regard to claim 8,

a pool structure floating on a sea (4); and

means for collecting and supplying deep-sea water (64, 62, 60, 58, 56, 54, 52, 50, 46, 26, 24, and 20, collectively; see col. 4, line 59 through col. 5, line 1) to the pool structure;

with regard to claim 28,

wherein said means for collecting and supplying deep-sea water to the pool structure includes a check valve (56) which only allows an upward flow of the deep-sea water; and

with regard to claim 44,

a pool structure (6); and

means for collecting and supplying deep-sea water (64, 62, 60, 58, 56, 54, 52, 50, 46, 26, 24, and 20, collectively; see col. 4, line 59 through col. 5, line 1) to the pool structure.

Art Unit: 3671

11. Claim 44 is rejected under 35 U.S.C. 102(b) as being anticipated by Atwell (U.S. Patent No. 4,536,257).

Atwell '257, as seen in Fig. 1, shows a pool comprising:

a pool structure (25); and

means for collecting (14) and supplying (22) deep-sea water to the pool structure.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 11 through 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538) in view of Mougin (U.S. Patent No. 4,166,363).

Boyd et al. '538 disclose all of the features of the claimed invention with the exception(s) of:

with regard to claims 11 and 12,

further comprising a propulsion device;

with regard to claim 13,

Art Unit: 3671

wherein said propulsion device includes a propeller.

Mougin '363, as seen in Figs. 1 through 3, shows a floating pool structure provided with a propeller (3) for driving the same.

With regard to claims 11 through 13, it would have been obvious to one of ordinary skill in the art of marine structures at the time of invention to modify the device shown by Boyd et al. '538 such that it would include a propulsion unit as taught by Mougin '363. The motivation would have been to facilitate relocation of the pool structure in a body of water.

14. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538) in view of O'Hare (U.S. Patent No. 5,669,330).

Boyd et al. '538 disclose all of the features of the claimed invention with the exception(s) of:

with regard to claim 14,

a plurality of extensions protruding from the pool structure.

O'Hare '330, as seen in Fig. 1, shows an aquatic organism habitat device (10) comprising a plurality of extensions (17) protruding from the bottom of horizontal member (11) attached to a preexisting bulkhead (12) for encouraging and supporting aquatic growth of marine organisms.

With regard to claim 14, it would have been obvious to one of ordinary skill in the art of marine structures at the time of invention to modify the device disclosed by Boyd et al. '538 such that it would include a plurality of extensions as taught by O'Hare '330. The motivation would have been to dually provide a pool structure capable of supporting aquatic life.

15. Claims 15, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538) in view of Mougin (U.S. Patent No. 4,166,363) as applied to claim 12 above, and further in view of O'Hare (U.S. Patent No. 5,669,330).

The apparatus shown by Boyd et al. '538 in Figs. 1 through 3 further comprises:
with regard to claim 17,

means for draining said deep-sea water from the pool structure (51; col. 5, lines 49 through 52); and

with regard to claim 19,

further comprising a facility (10) for enabling fishing from a side of said pool structure.

Boyd et al. '538 in view of Mougin '363 disclose all of the features of the claimed invention with the exception(s) of:

with regard to claim 15,

a plurality of extensions protruding from the pool structure.

O'Hare '330, as seen in Fig. 1, shows an aquatic organism habitat device (10) comprising a plurality of extensions (17) protruding from the bottom of horizontal member (11) attached to a preexisting bulkhead (12) for encouraging and supporting aquatic growth of marine organisms.

With regard to claim 15, it would have been obvious to one of ordinary skill in the art of marine structures at the time of invention to modify the device disclosed by Boyd et al. '538 and Mougin '363 such that it would include a plurality of extensions as taught by O'Hare '330. The motivation would have been to dually provide a pool structure capable of supporting aquatic life.

16. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538) in view of Puncochar (U.S. Patent No. 3,571,819).

Boyd et al. '538 disclose all of the features of the claimed invention with the exception(s) of:

with regard to claim 20,

means for generating and mixing air bubbles into the deep-sea water supplied to the pool.

Puncochar '819, as seen in Figs. 1 through 3, discloses a floating pool structure comprising means for generating and mixing air bubbles (24) into the deep-sea water supplied to the pool structure for preventing the ingress of unwanted sea organisms (col. 1, lines 21 through 35).

With regard to claim 20, it would have been obvious to one of ordinary skill in the art of marine structures at the time of invention to modify the device shown by Boyd et al. '538 such that it would include means for generating and mixing air bubbles into the deep-sea water supplied to the pool structure as taught by Puncochar '819. The motivation would have been to include a means of deterring sea creatures from entering the enclosed area of the pool structure.

17. Claims 21, 23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538) in view of Mougin (U.S. Patent No. 4,166,363) and O'Hare (U.S. Patent No. 5,669,330), as applied to claim 19 above, and further in view of Puncochar (U.S. Patent No. 3,571,819).

Boyd et al. '538 in view of Mougin '363 and O'Hare '330 disclose all of the features of the claimed invention with the exception(s) of:

with regard to claim 21,

means for generating and mixing air bubbles into the deep-sea water supplied to the pool;

with regard to claim 23,

means for solar power generation; and

with regard to claim 25,

means for wind power generation.

Puncochar '819, as seen in Figs. 1 through 3, discloses a floating pool structure comprising means for generating and mixing air bubbles (24) into the deep-sea water supplied to the pool structure for preventing the ingress of unwanted sea organisms (col. 1, lines 21 through 35).

With regard to claim 21, it would have been obvious to one of ordinary skill in the art of marine structures at the time of invention to modify the device shown by Boyd et al. '538, Mougin '363, and O'Hare '330 such that it would include means for generating and mixing air bubbles into the deep-sea water supplied to the pool structure as taught by Puncochar '819. The motivation would have been to include a means of deterring sea creatures from entering the enclosed area of the pool structure.

With regard to claims 23 and 25, it is a well known expedient in the art of power generation to use solar and wind energy to operate domestic and industrial facilities. Therefore, it would have been obvious to one of ordinary skill in the art at the time of

Art Unit: 3671

invention to further modify the device disclosed by the combination of Boyd et al. '538, Mougin '363, and O'Hare '330 such that it would include means for generating solar power. The motivation would have been to include a cost efficient energy source.

18. Claims 22 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538).

Boyd et al. '538 disclose all of the features of the claimed invention with the exception(s) of:

with regard to claim 22,

means for solar power generation; and

with regard to claim 24,

means for wind power generation.

With regard to claims 22 and 24, it is a well known expedient in the art of power generation to use solar and wind energy to operate domestic and industrial facilities.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to further modify the device disclosed by the combination of Boyd et al. '538 such that it would include means for generating solar power. The motivation would have been to include a cost efficient energy source.

Art Unit: 3671

19. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538) in view of Atwell (U.S. Patent No. 4,536,257).

Boyd et al. '538 disclose all of the features of the claimed invention with the exception(s) of:

with regard to claim 26,

a seawater desalination plant.

Atwell '257 discloses a desalination system for providing potable water.

With regard to claim 26, it would have been obvious to one of ordinary skill in the art of marine structures at the time of invention to modify the device shown by Boyd et al. '538 such that it would include a desalination system as taught by Atwell '257. The motivation would have been to provide a potable source of water on the apparatus.

20. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al. (U.S. Patent No. 3,026,538) in view of Mouglin (U.S. Patent No. 4,166,363), O'Hare (U.S. Patent No. 5,669,330), and Puncochar (U.S. Patent No. 3,571,819) as applied to claim 25 above, and further in view of Atwell (U.S. Patent No. 4,536,257).

Boyd et al. '538 in view of Mouglin '363, O'Hare '330, and Puncochar '819 disclose all of the features of the claimed invention with the exception(s) of:

Art Unit: 3671

with regard to claim 27,

a seawater desalination plant.

Atwell '257 discloses a desalination system for providing potable water.

With regard to claim 26, it would have been obvious to one of ordinary skill in the art of marine structures at the time of invention to modify the device shown by Boyd et al. '538, Mougin '363, O'Hare '330, and Puncoschar '819 such that it would include a desalination system as taught by Atwell '257. The motivation would have been to provide a potable source of water on the apparatus.

Allowable Subject Matter

21. Claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

22. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bliss, Jr. (U.S. Patent No. 3,844,122) shows a floating tank for storing liquids having a density less than that of water, the tank comprising an open bottom.

Russell et al. (U.S. Patent No. 4,126,905) show a floating pool structure.

Zaris (U.S. Patent No. 4,145,770) discloses a floating pool structure similar to that of Boyd et al. '538.

Bob et al. (U.S. Patent No. 4,149,281) and Yeung (U.S. Patent No. 5,570,480) disclose floating spas.

Fox et al. (U.S. Patent No. 4,815,896) and Fox et al. (U.S. Patent No. 4,833,729) teach the use of protrusions to deter shark attack.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-3795 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

Application/Control Number: 09/933,517

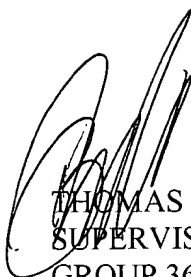
Page 16

Art Unit: 3671



TLM

17 December 2002



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